

(B) The employee's capability to learn skills and acquire knowledge and abilities needed in the new position; and

(C) The benefits to the Government which would result from retaining the employee in the Federal service.

(3) *Training displaced or surplus employees.* Displaced or surplus employees as defined in 5 CFR 330.604(b) and (f) may be eligible for training or retraining for positions outside Government through programs provided under 29 U.S.C. 1651, or similar authorities. An agency may use its appropriated funds for training displaced or surplus employees for positions outside Government only when specifically authorized by legislation to do so.

(4) *Career transition assistance plans.* Under 5 CFR 330.602, agencies are required to establish career transition assistance plans (CTAP) to provide career transition services to displaced and surplus employees.

(i) Under the authority of 5 U.S.C. 4109, an agency may:

(A) Train employees in the use of the CTAP services;

(B) Provide vocational and career assessment and counseling services;

(C) Train employees in job search skills, techniques, and strategies; and

(D) Pay for training related expenses as provided in 5 U.S.C. 4109(a)(2).

(ii) Agency CTAP's will include plans for retraining displaced or surplus employees covered by this part.

§ 410.308 Training to obtain an academic degree.

(a) *Prohibition.* (1) Under 5 U.S.C. 4107(a), an agency may not authorize training for an employee to obtain an academic degree, except for shortage occupations as defined in § 410.308(b).

(2)(i) The prohibition on academic degree in 5 U.S.C. 4107(a)(2) is not to be construed as limiting the authority of agencies to approve and pay for training expenses to develop knowledge, skills, and abilities directly related to improved individual performance. If, in the accomplishment of such training, an employee receives an academic degree, the degree is an incidental by-product of the training.

(ii) Paying an additional rate of tuition because a student is a degree can-

didate is prohibited. An agency is only authorized to pay the tuition and fees charged for a nondegree student, even though the employee is enrolled as a degree candidate. If it is not possible to distinguish between costs associated with the acquisition of knowledge and skills and the costs associated with the acquisition of an academic degree at an institution, an agency is authorized to pay in full the tuition of an employee participating in an authorized program of training at that institution.

(b) *Academic degree training to relieve recruitment and retention problems.* (1) 5 U.S.C. 4107(b) allows an agency to authorize academic degree training if the training:

(i) Is necessary to assist in recruiting or retaining employees in occupations in which the agency has or anticipates a shortage of qualified personnel, especially in occupations which it has determined involve skills critical to its mission, and

(ii) Meets the conditions of this section.

(2) In reviewing the need to provide training under this section, an agency shall give appropriate consideration to any special salary rate, student loan repayment, retention allowance, or other monetary inducement authorized by law already provided or being provided which contributes to the alleviation of the staffing problem in the occupation targeted by that training.

(3) In exercising the authority in this section, an agency shall, consistent with the merit system principles set forth in 5 U.S.C. 2301(b)(1) and (2), take into consideration the need to maintain a balanced workforce in which women and members of racial and ethnic minority groups are appropriately represented in the agency.

(4) The authority in this section shall not be exercised on behalf of any employee occupying, or seeking to qualify for appointment to, any position which is excepted from the competitive service because of its confidential, policy-determining, policy-making, or policy-advocating character.

(5) An agency's policies established under § 410.201 of this part shall cover decisions to authorize training under this section, to ensure that:

(i) The determination to pay for degree training is made at a sufficiently high level so as to protect the Government's interest; and

(ii) The authority is used to address the agency's recruitment and retention problems expeditiously through appropriate delegations of authority.

(c) *Determining recruitment and retention problems.* For the purposes of this section, a recruitment or retention problem exists if the criteria for a recruitment bonus under 5 CFR 575.104(c)(2) or for a retention allowance under 5 CFR 575.305(c)(3) applies.

(1) *Recruitment problem.* Before determining that an agency has or anticipates a problem in the recruitment of qualified personnel for a particular position, an agency shall make a reasonable recruitment effort, including factors in 5 CFR 575.104(c)(2). In making a reasonable recruitment effort, an agency will consider the following:

(i) For a position in the competitive service, the results of requests for referral of eligibles from the appropriate competitive examination. For a position in the excepted service, the agency's objectives and staffing procedures.

(ii) Contacts with State Employment Service office(s) serving the locality concerned.

(iii) Contacts with academic institutions, technical and professional organizations, and other organizations likely to produce qualified candidates for the position, including women's and minority-group organizations.

(iv) The possibility of relieving the shortage through broader publicity and recruitment.

(v) The availability of qualified candidates within the agency's current work force.

(vi) The possibility of relieving the shortage through job engineering or training of current employees.

(2) *Retention problem.* Before determining that an agency has or anticipates a problem in the retention of qualified personnel in a particular occupation, an agency shall consider the factors in 5 CFR 575.305(c)(3) and:

(i) The ease with which an agency could replace the employee with someone of comparable background;

(ii) The current and projected vacancy rates in the occupation;

(iii) The rate of turnover in the occupation; and

(iv) Technological changes affecting the occupation and long-range predictions affecting staffing for the occupation.

(d) *Assessing continuing problems.* A reassessment of a "continuing" recruitment or retention problem shall be made periodically.

(e) *Authorizing training.* (1) An agency may authorize full or part-time training to address a recruitment problem if—

(i) The training qualifies an employee for a shortage position identified under paragraph (c)(1) of this section; and

(ii) The agency expects to place the employee in the shortage position after the training.

(2) Training may be authorized under this section for the purpose of retaining an employee in a shortage occupation identified under paragraph (c)(2) of this section, if it involves a course of study selected mainly for its potential contribution to effective performance in that occupation.

(3) Agencies shall select employees for academic degree training according to competitive procedures as specified in §410.306.

(f) *Monitoring training.* An agency shall assess the contribution of training assignments under this section to resolving recruitment or retention problems in its shortage occupations.

(g) *Documentation.* (1) In exercising the authority in this section, an agency shall retain for a reasonable period:

(i) A record of employees assigned to training under this section; and

(ii) A record of findings that the recruitment or retention problem is a continuing one.

(2) As a separate record, the servicing personnel office shall keep the following information for each employee assigned to training under this section:

(i) Nature and justification for the shortage determination;

(ii) Kind of training (e.g., career experience program, continuing professional and technical education, retraining for occupational change); a description of the field of study; and the nature of any degree pursued under the training program; and

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(iii) A written continued service agreement, if required.

§ 410.309 Agreements to continue in service.

(a) *Authority.* Continued service agreements are provided for in section 4108 of title 5, United States Code. Agencies have the authority to determine when such agreements will be required.

(b) *Requirements.* (1) The head of the agency shall establish written procedures which include the minimum requirements for continued service agreements. These requirements shall include procedures the agency considers necessary to protect the Government's interest should the employee fail to successfully complete training.

(2) An employee selected for training subject to an agency continued service agreement must sign an agreement to continue in service after training prior to starting the training. The period of service will equal at least three times the length of the training.

(c) *Failure to fulfill agreements.* With a signed agreement, the agency has a right to recover training costs, except pay or other compensation, if the employee voluntarily separates from Government service. The agency shall provide procedures to enable the employee to obtain a reconsideration of the recovery amount or to appeal for a waiver of the agency's right to recover.

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§ 410.310 Computing time in training.

For the purpose of computing time in training for continued service agreements under section 4108 of title 5, United States Code:

(a) An employee on an 8-hour day work schedule assigned to training is counted as being in training for the same number of hours he or she is in pay status during the training assignment. If the employee is not in pay status during the training, the employee is counted as being in training for the number of hours he or she is granted leave without pay for the purpose of the training.

(b) For an employee on an alternative work schedule, the agency is responsible for determining the number

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of hours the employee is in pay status during the training assignment. If the employee is not in pay status during the training, the employee is counted as being in training for the number of hours he or she is granted leave without pay for the purpose of the training.

(c) An employee on an 8-hour or an alternative work schedule assigned to training on less than a full-time basis is counted as being in training for the number of hours he or she spends in class, in formal computer-based training, in satellite training, in formal self-study programs, or with the training instructor, unless a different method is determined by the agency.

§ 410.311 Records.

Agencies shall retain, in such form and manner as the agency head considers appropriate, a record of training events authorized under this subpart for a reasonable period of time.

Subpart D—Paying for Training Expenses

§ 410.401 Determining necessary training expenses.

(a) The head of an agency determines which expenses constitute necessary training expenses under section 4109 of title 5, United States Code.

(b) An agency may pay, or reimburse an employee, for necessary expenses incurred in connection with approved training as provided in section 4109(a)(2) of title 5, United States Code. Necessary training expenses do not include an employee's pay or other compensation.

§ 410.402 Paying premium pay.

(a) *Prohibitions.* Except as provided by paragraph (b) of this section, an agency may not use its funds, appropriated or otherwise available, to pay premium pay to an employee engaged in training by, in, or through Government or non-government facilities.

(b) *Exceptions.* The following are excepted from the provision in paragraph (a) of this section prohibiting the payment of premium pay: